

§ 1788.6

1. That this endorsement forms a part of the original policy.

2. Changes in policy forms or endorsements, as a result of approval by a regulatory authority, will be submitted to the Rural Utilities Service prior to use for a borrower of said Administration.

3. That it will mail to said Administration, at least ten days before the effective date thereof, notice of cancellation or termination of said policy, or cessation of coverage for any reason of any affiliate or subsidiary of the assured which is a borrower from the administration.

4. That each endorsement subsequently issued will become a part of said original policy.

(c) In the case of a cooperative or mutual organization, RUS requires that the following: "Endorsement Waiving Immunity From Tort Liability" be included as a part of each public liability, owned, nonowned, hired automobile, and aircraft liability, employers' liability policy, and boiler policy:

The Insurer agrees with the Rural Utilities Service that such insurance as is afforded by the policy applies subject to the following provisions:

1. The company agrees that it will not use, either in the adjustment of claims or in the defense of suits against the Insured, the immunity of the Insured from tort liability, unless requested by the Insured to interpose such defense.

2. The Insured agrees that the waiver of the defense of immunity shall not subject the company to liability of any portion of a claim, verdict or judgment in excess of the limits of liability stated in the policy.

3. The company agrees that if the Insured is relieved of liability because of its immunity, either by interposition of such defense at the request of the Insured or by voluntary action of a court, the insurance applicable to the injuries on which such suit is based, to the extent to which it would otherwise have been available to the Insured, shall apply to officers and employees of the Insured in their capacity as such; provided that all defenses other than immunity from tort liability which would be available to the company but for said immunity in suits against the Insured or against the company under the policy shall be available to the company with respect to such officers and employees in suits against such officers and employees or against the company under the policy.

§ 1788.6 Analysis of deductibles.

When deductibles are considered, careful analysis should be given to the

7 CFR Ch. XVII (1-1-98 Edition)

size of the deductible and its effect on the financial position of the borrower. A periodic review should be made of the policy to determine the economy and advisability of continuing the deductible.

§ 1788.7 Specialized requirements.

Borrowers with specialized requirements or equipment, such as nuclear facilities, private generation connection, hydro, solar, wind, watercraft, and aircraft, or who do not operate their own systems, will be advised of RUS insurance requirements in each specific case.

§ 1788.8 Procedure for fidelity notices and claims.

Upon discovery by the borrower or RUS of any fraudulent or dishonest act of any officer, employee, or collection agent, the borrower shall notify the bonding company of such discovery promptly in writing. Such notice, a copy of which shall be sent immediately to RUS and each supplemental lender, shall be given on behalf of both the borrower and RUS. If a proof of loss is filed, it shall also be filed on behalf of both the borrower and RUS. A copy of the proof of loss, if any, shall be sent immediately to RUS and each supplemental lender by the borrower.

§ 1788.9 Recovering claims.

The borrower shall, when necessary to protect all rights under the fidelity bond, initiate suit against the insurance company to recover all claims.

§ 1788.10 Reporting accidents.

Borrowers shall promptly provide the insurance company providing coverage a written report of all accidents involving injury to persons, damage to the property of others, or direct damage to the insured property of the borrower and forward at the same time a copy of all reports except those involving only employees of the borrower to RUS and each supplemental lender.

§ 1788.11 Reporting claims to RUS.

The borrower shall furnish RUS and each supplemental lender a copy of any claim submitted to an insurance company seeking recovery of loss for damage or destruction of property.